

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of:

Juha SALO *ET AL.*

Serial No.: 09/893,890

Filed: June 29, 2001

For: RECEIVER

Atty. Docket No.: 004770.00775

Group Art Unit: 2617

Examiner: Nguyen, David Q.

Confirmation No.: 4950

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Box AF

U.S. Patent and Trademark Office
Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Sir:

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated in the below remarks. If any fees are required or if an overpayment is made, the Commissioner is authorized to debit or credit our Deposit Account No. 19-0733, accordingly.

Remarks

Having received and reviewed the final Office Action dated January 11, 2007, and the Advisory Action dated April 5, 2007, Applicants respectfully submit that the standing rejections are based on one or more clear errors, and that the appeal process can be avoided through a pre-appeal brief review as set forth in the Official Gazette notice of July 12, 2005.

The pending rejections fail to address all the claim limitations, and exhibit clear factual and legal errors with respect to the cited references. The specific error relied upon in this Pre-Appeal Brief Request for Review includes the following:

- The Office made clear error in relying on Tegler, either separately or in combination with Yuen, in its rejection of claims 1-10, 18-21 and 38-40 as argued

in Applicant's Request for Reconsideration filed March 13, 2007, pp. 5-7. In the Office's Advisory Action dated April 5, 2007, the Office asserts that Tegler discloses a mobile phone with two receivers, a broadband receiver and a GSM receiver, where a user is able to make on-demand video purchases using a mobile phone. Even assuming, without admitting, the validity of this assertion, there is still no teaching or suggestion of the mobile terminal determining a receiving schedule of the first receiver based on complementary information received from the second receiver, as argued in Applicant's Request for Reconsideration of March 13, 2007. Indeed, the Office does not identify any portion of Tegler that teaches or suggests that a mobile terminal determines a receiving schedule of a first receiver based on information received from the second receiver. The Office fails to identify what information is being allegedly received by the GSM receiver and used by the mobile terminal to determine a receiving schedule of the broadband receiver. At best, the Office asserts that "to order a film, users have to know the schedule of the film." Even if taken as true, a user knowing a schedule does not constitute a mobile terminal determining a receiving schedule of a first receiver. Applicants respectfully submit that there is no teaching or suggestion in Tegler of a user's knowledge being automatically imparted on the mobile terminal and/or a receiver of the mobile terminal. In addition, the cited passage of Tegler merely refers to DVB producing protocols for data broadcast which makes possible for a set-top-box to find data information in a broadcast channel. Col. 3, ll. 47-53. Even assuming, without admitting, that finding data information in a broadcast channel constitutes a receiving schedule, Tegler does not teach or suggest that the ability to find data information in a broadcast channel is determined based on complementary information received by a second receiver. At best, Tegler discloses transmitting interactive data using either a broadband broadcast channel or a GSM downlink. Col. 3, ll. 47-50. Tegler makes no connection between data received by the GSM receiver and the ability to find data information in a broadcast channel. Yuen fails to cure these deficiencies of Tegler.

- The Office made clear error in rejecting claims 1, 18 and 38 under 35 U.S.C. §112, first paragraph. The features to which the Office objects are clearly supported and described throughout Applicants' specification and at least at paragraph [0024], as submitted in Applicants Request for Reconsideration filed March 13, 2007. For example, paragraph [0024] discloses that a service announcement may be received by a cellular transceiver (i.e., second receiver) and processed by a controller (i.e., a component of mobile terminal 200, see FIG. 2) to inform the DVB-T receiver (i.e., first receiver) of when the video clip will be broadcast so that the DVB-T receiver may be powered up and configured in time to receive and decode the video clip. As such, the controller inherently determines a schedule, based on the service announcement, for powering up and configuring the DVB-T receiver so that the DVB-T is prepared in time to receive and decode the video clip. In other words, the controller uses the service announcement to determine when the DVB-T receiver should be ready to receive the content advertised by the service announcement (i.e., receiving schedule).

While Applicants believe the above points represent the clearest errors made by the Office, Applicants reserve the right to appeal on other bases and errors. Applicants further reserve the right to address the rejections of any other claims not identified above on appeal should the appeal of this case proceed after the Office's consideration of this paper.

CONCLUSION

All issues having been addressed, Applicants respectfully submit that the instant application is in condition for allowance, and respectfully solicit prompt notification of the same. However, if for any reason the review panel believes the application is not in condition for allowance or there are any questions, the review panel is invited to contact the undersigned at (202) 824-3156.

Respectfully submitted,

BANNER & WITCOFF, LTD.

Dated this 11th day of April, 2007

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